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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

**By Hand Delivery**

William F. Caton  
Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, D.C. 20554

**BOEING**

Re: Written *Ex Parte* Presentation -- PR Docket No. 93-144; GN  
Docket No. 93-252; PP Docket No. 93-253

Dear Mr. Caton:

The Boeing Company ("Boeing") hereby submits this letter in support of the *ex parte* statement filed by the Industrial Telecommunications Association ("ITA") on June 7, 1996. In the statement, ITA urged the Commission -- in the event it decides to subject any remaining 800 MHz General Category spectrum to competitive bidding -- to give the public clear notice that *no* such spectrum is available in the Canadian border region. Boeing agrees with ITA that the unique circumstances surrounding the allocation of 800 MHz spectrum in the Canadian border region require such action. By making clear to the public that there are no General Category channels available in the border region, the Commission will ensure that the public has no misconceptions regarding the availability (or unavailability) of such spectrum and, more important, will prevent later disputes over access to these frequencies.

**Background**

Boeing is the Nation's largest manufacturer of commercial aircraft. The company also produces sophisticated military aircraft, satellites and aerospace technology. A significant percentage of Boeing's engineering, design, testing and production activity takes place at offices, plants, hangars and airfields located in the Puget Sound region in northwest Washington, above the Commission's "Line A." To facilitate communications within and among these facilities, Boeing operates an extensive 800 MHz trunked land mobile radio system. The system is used to support functions that are critical to the success of Boeing's overall mission, ranging from the coordination of certain production and testing operations to the dispatch of security personnel. Boeing's 800 MHz system is an integral component of the company's internal information infrastructure.

Discussion

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Boeing will not detail here the lengthy and intricate history of the Commission's allocation of 800 MHz frequencies. In brief, the General Category's 150 channels were initially made available throughout most of the country for the development of conventional land mobile systems. These 150 channels were not made available in the Canadian border region, however, until U.S. and Canadian negotiators could develop an appropriate sharing scheme. The sharing plan ultimately adopted gave the United States primary access to certain channels along the border and Canada primary access to others, with the exact division of channels defined within eight sub-regions above Line A. Once that scheme was devised, the Commission proceeded to further subdivide the spectrum within each sub-region among the Specialized Mobile Radio ("SMR" or commercial) Category and the Industrial/Land Transportation ("I/LT"), Business and Public Safety (or non-commercial) Categories, omitting any "general access" allocation for conventional systems. Suffice it to say that the process has resulted in a complicated division of the spectrum between Canadian and U.S. users.<sup>1</sup>

Boeing has built its 800 MHz system in reliance upon this unique allocation of spectrum. By virtue of Canadian use, of course, Boeing and other companies operating in the border region have had significantly less favorable access to 800 MHz spectrum than those operating outside the border region. Nonetheless, Boeing has been able to migrate mobile traffic to its 800 MHz system precisely because the Commission did allocate a discrete amount of spectrum to I/LT users in the region.<sup>2</sup>

Boeing's radio system now employs 30 sites and approximately 4000 mobile units in a wide-area configuration, providing coverage over the entire Puget Sound region. The system uses 24 channels allocated to the 800 MHz I/LT Category above Line A. The same 24 channels are allocated to the General Category below Line A. Boeing also uses throughout this region 9 channels allocated to the Public Safety Category above Line A which are allocated to the General Category below Line A.

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<sup>1</sup> See 47 C.F.R. § 90.619(b).

<sup>2</sup> Like many other I/LT and Business users, Boeing wishes there were more 800 MHz spectrum to accommodate future demands, but has found that inter-category sharing by commercial operators has essentially exhausted the allocation.

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In its *First Report and Order*, *Eighth Report and Order*, and *Second Further Notice of Proposed Rulemaking* ("Order") in the above-referenced proceeding, the Commission has proposed to use competitive bidding to license whatever General Category spectrum might remain available in the Nation.<sup>3</sup> Boeing opposes the auctioning of spectrum used for non-commercial purposes, including the auctioning of 800 MHz General Category spectrum. As to the specific matter at hand, moreover, Boeing shares ITA's concern that the allocation scheme above Line A might not be "immediately apparent to entities interested in competing for the General Category channels" and that the *Order* may be misleading because it fails to acknowledge that the Commission has allocated no General Category spectrum above Line A.<sup>4</sup> ITA is particularly concerned that this omission could lead the public into wrongly believing that it will have access to spectrum above Line A when the Commission's rules contain no such allocation of General Category spectrum.<sup>5</sup>

Boeing likewise believes the *Order* to be misleading. The *Order* states that successful bidders will "be entitled to use any available border-area channels, subject to relevant rules regarding international assignment and coordination of such channels."<sup>6</sup> This language -- if read as a self-contained statement of Commission policy -- could lead the unsophisticated (and perhaps even the sophisticated) bidder to believe that the Commission has decided that whatever General Category channels are allocated below Line A should be considered available above Line A, notwithstanding the Commission's rules to the contrary. Such a misperception, if not corrected, could result in serious prejudice to both bidders for General Category spectrum and to incumbent licensees, like Boeing, in the Canadian border region.

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<sup>3</sup> See *First Report and Order*, *Eighth Report and Order*, and *Second Further Notice of Proposed Rulemaking*, PR Docket No. 93-144, GN Docket No. 93-252, PP Docket No. 93-253, FCC 95-501, at ¶ 324 (released Dec. 15, 1995) [hereinafter "*Order*"].

<sup>4</sup> Ex Parte Presentation of Industrial Telecommunications Association, Inc., PR Docket No. 93-144, GN Docket No. 93-252, PP Docket No. 93-253, at 3 (filed June 7, 1996).

<sup>5</sup> See *id.* at 2.

<sup>6</sup> *Order* at ¶ 319.

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Boeing recognizes that the Commission expects bidders to perform reasonable due diligence before investing in an FCC license or even participating in an FCC auction. The Commission's experience to date, however, has demonstrated that the degree of due diligence is not always what one would expect.<sup>7</sup> Moreover, it is fair to say that the rules governing the Canadian border allocation -- with their divisions among SMR and non-SMR use and their divisions among several border sub-regions -- are among the most arcane in all of Part 90. If bidders are not clearly forewarned that no General Category spectrum exists above Line A, the Commission runs the risk of fomenting overbidding for border area licenses, as well as the associated costs of bidder defaults and reauctioning when an uninformed successful bidder realizes his or her mistake. Alternatively, the Commission risks disputes between incumbents who will vigorously protect their systems from incursions by winning bidders who might have wrongly interpreted the Commission's *Order* as allowing use above Line A of spectrum allocated to the General Category below that line. Like ITA, Boeing believes that a simple, clear warning to all bidders will, with very little effort, significantly advance the public interest in informed bidding and in avoiding these potential controversies.

In accordance with Section 1.1206(a) of the Commission's rules, two copies of this letter are being submitted for inclusion in the record of this proceeding.

Respectfully submitted,



Sheldon R. Bentley  
Director, Government Affairs  
Information and Support Services

cc: Honorable Reed E. Hundt  
Honorable James H. Quello  
Honorable Rachelle B. Chong  
Honorable Susan Ness  
Mark E. Crosby, Industrial  
Telecommunications Association

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<sup>7</sup> See, e.g., *Interactive Video Data Service (IVDS) Licenses: Various Requests by Auction Winners*, 11 FCC Rcd 1282 (1995) (denying various post-auction requests by winning bidders for relief from auction and construction obligations).